

THE
LAWFULNES
of obeying the
Present Government,
And
Acting under it,
With some other ADDITIONS to a former EDITION.

By one that Loves all PRESBYTERIAN
lovers of Truth and Peace, and is
of their Communion.
Francis Rowe

JOHN 7. 24.

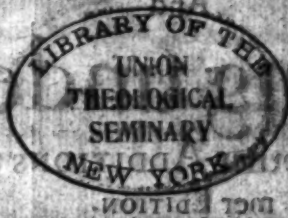
*Judge not according to the appearance, but judge righteous
judgements.*

LONDON,

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THE
 LAVVFULNESS
 of obeying the
 Present Government



By one that Loves all PRESBYTERIAN
 lovers of Truth and Peace, and is
 of their Countryman.

JOHN T. COLE

Not recorded in the Appendix, but judge right
 and correct

LONDON

Printed for J. W. Smith, at the N. W. Corner of
 Old Bailey, 1850.

The lawfulnessse of obeying the pre-
sent Government,

And acting under it

*A Declaration hath beene lately published, wherein the grounds are exprest of settling the present Government, with which if any be not so far satisfied as to thinke that settlement lawfull, yet even to such is this discourse directed, which propoeth Prooofes, that though the change of a Government were beleev-
ed not to be lawfull, yet it may lawfully be obeyed.*

He Apostle intreating of purpose upon the duty of submission and obedience to Authority, *lays downe this precept: Let every soule be subject to the higher powers, for there is no power but of Gods: the powers that are, are ordained of Gods: and hereupon inferre, Wherefore ye must needs*

Rom. 13.

*Propheta
omni iudicio
Moralitatem
quod cum po-
testate & au-
ritate, maluit
tamen Aposto-
lus ipsam pote-
statem nominare
quod dominum,
&c. Ralloe. in
locum.*

1 Tim. 2. 2.

A.D. 118. 1, 2.

*Timore cadit
emertit pro-
cessit ad solari-
um proximum
interque gra-
ta foribus vela
se addidit; la-
gentem, discor-
rans forte gre-
garius miles
animadversus*

(Subject not only for words, but for confidence sake)
And that he speaks not in this place merely of power or authority abstracted from persons, but of persons clothed with that authority, appears as that he saith; For, *Rulers are not a terror to good works.* So that he speaks of persons ruling as well as of the power by which they rule. And again, *He is the Minister of God,* and they are Gods Ministers, & accordingly he directs *Timothy*, to pray for a blessing upon those that are in authority. Now if the Powers, Rulers, and those that were in authority in that time were ordained of God, and were to be obeyed for conscience sake, let us consider how lawfully they came into that power, rule, and authority. This Epistle most probably, if not certainly, was written in the time of *Claudius Caesar*, or *Nero*, the former of which banished the Jews out of *Rome*, upon which occasion *Acquila* and *Priscilla* came out and met with *Paul* at *Corinth*: and by the sentence of the latter, *Paul* having made his appeal to *Cesar* finished his course, and pulled up to a crown of righteousness. And now, behold the lawfulness by which these two persons came to be invested in their power and authority.

Of *Claudius Caesar* the Story tells us that After the death of *Gaius Caligula*, the Consuls and Senate of *Rome* entered into a consultation, how they might restore the Common-wealth to her ancient freedom, which by the *Cesars* had been taken from them. So that the taking in of an Emperour, and consequently of *Claudius* for Emperour, was directly against the

the will and resolution of the Consuls and Senate
yet these anciently for many hundred yeares had
the chiefe power of Government; But see the way
of *Claudius* his coming to the Empire; during the
Inter-regnum, *Claudius* being frighted with the news
of *Caligula*'s death, and fearing himselfe might be
enquired for upon suspicion with-drew, and hid
himselfe behind the Hangings, or covering of a
doore; where a Souldier seeing his feet, and desirous
to know what he was drew him forth, and upon
knowledge of him saluted him Emperour,
though even then for feare falling down low be-
fore him. This one Souldier brought him forth to
his fellow Souldiers, who lifted him up as Empe-
rour; and thus while the Senate was slow in execu-
ting their purpose, and differences grew among
them, *Claudius*, who was sent for by the Senate to
give in his counsell concerning the common free-
dome, undertook the Empire. Thus in one Soul-
dier at first, and then in more, was the foundation
of *Claudius* his Emperiall power, against the will,
consultations and endeavours of Consuls and Se-
nate. And for *Nero* (his Successor) *Agrippina*, who
was nearest of kin to *Claudius*, being his Son, was
kept in by the cunning of *Nero*'s mother, and by
the same craft *Nero* being brought forth to the Soul-
diers, was first saluted Emperour by them. This
sentence of the Souldiers was followed with the
consent of the Senate, and then it was not scrupled
in the Provinces; so that the Souldiers was also the
foundation of *Nero*'s Empire. Thus we see Rulers

post hoc, et fructu
significat. Quod
non est, apud
nos, parvulus
et per meum ad
Clausum sibi
dentem. Impi-
umque saluta-
re. Nunc et
alios communi-
tatem fallentes
non quicquam ad
hoc. Nam fructu
meum perduc-
it. At his testis
et impostum, et
quia. Item. Dis-
pugnat, et
civili succellam
nam, in castra
delatus est, et
tristis et impu-
dus miserrime
obvia turba,
quasi ad penam
raperetur infans
Recepit intra
vallum inter
excubias mili-
tum pernoctavit,
aliquando
miro spe quam
seducia. Nam
Consule cum
Senatu. Et co-
horibus urbis
forum capiti-
sumus, occupa-
mus, asserturi
communem liber-
tatem, acriter
et ipsa per
Viduum plebe

(4)
put by Souldiers into that power which is said
by the Scripture not be ordained of God; and
even to these Rulers men must be subject for con-
science.

an aditum bonum in quibusdam locis
die Senas sequere in exequiis immittit per medium de discretum deinde proferre
Et multitudine qua circum aderat, unum interem san & romanum excofens armis pro-
curatore grecorum fuit passus est, puerum, fugatis quinquaginta H.S. primo Cast-
non fuit militis, dum promissu perat. Juxta in Chabris. Legatione cum fuit
villa. Et solus conquireat, terra amplexu bellum. Item que ut ait officium con-
pollere. Item in Arundinibus. Et Orlavian arimur. Et cum omni cultu cultu claretat,
cultus; vulgaris in in milia videretur principis, quibus in milia fuit, et in
proferre ex omni Chabris in sumari. Item milia dui, ornamentis. Orlavian fuit
polus repente diducit, conquireat Burtho Nero excofens ad excofens que in milia ex-
cubis adit. in milia repente fuit in milia. Item in milia. Item in milia. Item in milia.
dam ferunt repente fuit in milia. Item in milia. Item in milia. Item in milia.
qua in milia repente fuit in milia. Item in milia. Item in milia. Item in milia.
missa in milia repente fuit in milia. Item in milia. Item in milia. Item in milia.
scus in milia repente fuit in milia. Item in milia. Item in milia. Item in milia.

But passing from the Roman state to our owne
sure we are that in this Nation many persons have
bene settled in supreme power and authority by
mere force, without title of inheritance, or just
conquest. And it hath been observed by some that
accurately have looked into our story, that not any
three immediately succeeding each other, came to
the Crown by the true lineall descent and order of
blood. Neither is there any great difficulty in find-
ing it, untill we come to Queene Mary, while she
being by an incestuous marriage, their observers say
that Queene Elizabeth should have claimed as her
fields. However, we are clearly told by story, that five
Kings on a row of which the Conqueror was the
first had no title at all by lineall descent and prox-
imity of blood. The first came in by force; The

second

Second and third had an elder Brother living when they came to the Crowns. The fourth reigned when his Predecessor had a Daughter, and Heire living which was *Maria* the Emperesse. The fifth being the Son of that Emperesse, reigned while his Mother was alive, by whom his Title came. But leaving these, and *Edward* the third who reigned in his Fathers life time, and the three *Henries* fourth, fifth, and six, who reigned upon the *Lancastrian* (that is, a younger Brothers) Title, Let us more particularly consider *Henry* the seventh. This *Henry* came in with an Army, and by their power was made King in the Army, and by the Army, so that in the very field where he got the Victory, the Crowne was set upon his head, and there he gave Knight-hood to divers. And upon this foundation of military power, he got himself afterwards to be solemnly Crowned at *Westminster*. And soon after upon authority thus gotten, he called a Parliament, and in that Parliament was the Crowne entailed upon him and his Heires. Thus both his Crowne and his Parliament were founded upon power. As for any right Title, he could have none; for he came from a Bastard of *John* of *Gaunt*, which though legitimated by Parliament for common Inheritances, yet expressly was excluded from right to the Crowne. And for his wives Title, that came in after his Kingdome, and his Parliament, which before had setled the Crowne upon him and his Heires. And he was so farr from exercising authority in her right, that her name is not used in any

See Speed in H
y. n. 1. & 2. c.

Laws

Laws, as *Queene Mary* was, both before and after her marriage with the Spanish King. Now this and the rest who came in by these power without Title of inheritance, being in their opinion who are now unsatisfied, to be held unlawfull, yet the maine body of this Nation did obey them, whilst they ruled; yet do they yield feydection to their Lawes to this very day. And the learned in the Lawes doe continually plead, judge, justify, and condemn according to these Lawes; So that herein the very voyce of the Nation without offence seemes to speake aloud; That those whose Title is held unlawfull, yet being possesse of authority, may lawfully be obeyed.

And hereunto Divines and Casuists give their concurrence; among them one that is resolute both for Monarchy and lineall Succession, thus expresseth his judgement, both for seeking of right and justice from an usurper (whom he calleth a Tyrant, in regard of an unjust Title, not in respect of Tyrannicall oppression) and for obeying his commands.

First, that Subjects may lawfully seek Justice of him;
And secondly, that if his commands be lawfull and
just, they shall be obeyed. And another well ex-
pounded in the Reformed Churches, is of the same
Judgement.

[illegible]

Si mandata principum, abique Tyranni, sine auge & iustis, periculum est Alfed. Theol. Cal.
Cap. 13.

Parents

Power saith, that it matters not by what means
or craft Nimrod, Jeroboam, got Kingdoms to them-
selves; For the power is one thing which is of God, and
the getting and the use of the power is another; And
after: the beginning of Nimrods power was indeed
evill, as to the getting and usurping power, because
abusing his strength, force, and wealth, he violently
subdued others, and compelled them to obey; but not
the power or force whereby he seemed to be induced
by God above others. And another more plainly. When
a question is made whom we should obey, it must not be
lookt at what he is that exercises the power, or by what
right or wrong he hath invaded the power, or in what
manner he hath obtained it, but onely if he have power.
For of any man with excellent power, it is now out of
doubt, that he received that power of God. Wherefore
without all exception thou must yield thy self up to him,
and be ready to obey him.

For this is the true manner of the power, and the manner of the power is not to be considered, but the power itself. Quia igitur quatuor est potentia, et
ut in omnibus casibus in potestate exercere non potest in injuria, qui potestatem
habent, quoniam rationem cum administrant, sed tantum si potestatem habeant. Si enim quis potestatem
alienam in violationem of illius a deo cum potestatem accepisse, unde sine omni exceptione illi
primus operetur, pariter et minus. Under in Rom. 13.

And the same Author againe; When a question is
made to whom obedience should be given: A Christian is
taught out of the Apostle, that he should looke onely to
this, who hath the power in that place where he lives.

Another thing it often comes to passe, that Aliens or
Nations by violence or force invade the Common-
Wealth, but in any of these cases Subjects may not when
the cause is about to change the forme of the Common-
Wealth,

B

Wealth,

Civilis &
divinus: et pro
utroque sumit.
Gen. 9.
Et si se omni
domini subdit.
qui sanguis vi
am facit ut ab
domino. Non
autem a potestate
prohibet minus
non occideret. Sed
a Magistratu
divino, unde
non. Nec refert
quibus modis
vel auxiliis
Nimrod, Jero-
boam, et alii
reges sui pote-
statem. Nam a
hinc est potestas
qua a Deo est
aliquid acquisita
et ab ea potesta-
te. Para. in
Rom. 13: ubi

Ex apostoli
lectione christi-
ane conquiritur
cum potentia
in hoc nam res
spectandum esse
quoniam ubi ubi
ipse ubi potesta-
tem habet, id
libid.
Fit frequenter
vel alieni vel

adigena, per se Wealth, nor dispute seditionously of the Right or authori-
 ditiones sui ty of their Ruler, but should singly obey the PRESENT
 aperta Kemp in Magistrates in all things which may be done without
 viderent. At que wrong to Conscience and Piety.

quid horum sit, non est sub di-
 torum vel Regi, sed non inuicem velle pro his actibus, ut de sui principii jure seditionis dispu-
 tare, sed simpliciter obediunt Magistrate, ut deus in eis sit, et illa ordinatio-
 nis, et salua pietate fieri possunt, Gualter in Rom. 13.

Videatur Apo- And another thus, The Apostle seems here to go a-
 stolis voluisse bout to take away the frivolous Curiosity of men, who of-
 tollere frivolum ten use to enquire by what right those which have com-
 hominum curi- mand did get their authority; But it ought to be suffici-
 ositatem, qui se- ent to us, that they are in preheminence. For they did
 solent inquirere, quo jure adepti not get up to this height by their own strength, but they
 fuerint potesta- are set over by the hand of God. Yet another, (And all
 tem, qui verum are these chief pillars of the reformed Churches) It shall not
 potestatur. Satis beie be scrupulously disputed by what right or by what
 autem nobis esse debit quod pre- wrong Princes have gotten their power. This rather is
 sunt. Non enim to be done, that we reverence the PRESENT Magi-
 considerant strates. For this Epistle was written when the Ro-
 sua ipsi commo- manes had now gotten the Empire of the world, which
 ut hoc seditum we know they did possess by force, and that afterwards
 sed emendamine the Emperours by policies nothing better than to them-
 sunt impositi. selves an universall power. Yet Paul doth command
 Calvin in Rom. that Magistrates without all exception must be
 13. obeyed.

Nihil his excu-
 dignationem ex
 qui jure, quia ut
 injura, principes
 adepti sunt pote-
 statem suam. Illud potius agendum est, ut Magistrate Prædictos reverentur. Hoc enim Pau-
 sola scribebat, cum Romani jam adepti essent imperium orbis terrarum, quod eis per vim sci-
 mus occupasse, & postea Imperatores artibus nihil melioribus ratione finem ad se pertrax-
 isse. Paulus tamen sine omni exceptione præcipi debet, ut omnes magistratus, Rom. 13.

And indeed how can it be otherwise, for when a
 person

person or persons have gotten Supreme power, and by the same excluded all other from authority, either that authority which is thus taken by power must be obeyed, or else all authority and government must fall to the ground: & so confusion (which is worse then titillar Tyranny) be admitted into a Common-wealth. And (according to the doctrine of King James) the King being for the common-wealth, and not the Common-wealth for the King, the end should be destroyed for the means, the whole for a part. If a Masters mate had throwne the Master over Board, and by power would suffer no other to guide the Ship but himselfe; if the Mariners will not obey him commanding a right for the safe-guiding of the Ship, the Ship must needs perish and themselves with it.

So that whereas some speake of ill consequences, if this Doctrine be received, they may here see worke consequences if it be not received; and wise men should see the consequences on all sides, and judge upon the whole.

And surely whatsover ill consequences may appeare upon obeying they appeare at more distance, but confusion & destruction, come in presently upon disobeying. The Common-Wealth is presently put into an Government & Confusion by disobedience: or into sedition, civill warre, yea destruction, by standing against a prevalent power. Therefore as that which hath the lesse ill consequences, not only,

Ad paucos respicientes & facili judicant.

atresatur bene esse licitum omnibus qui sub Tyrannis & illis dominis dunt dum obsequi.

conscientia terris
pulsu passim om-
nes ad Tyrannos
Eruditionis domini
reuerentiam, ac si
esset Daniels.
Cajet. Sum
Verbo Tyrannus

Government from those, that have overpowered them, But indeed the question is properly here, what is lawfull, and not what ill consequences the corruption of man may worke upon that which is lawfull. And as to the lawfulness, we have seen before what Scripture, Diuines, Reason, and generall practice have resolved, and taught.

And whereas some speake of a time for settlement; they indeed doe rather speake for a time of unsettlement; for they will haue an unsettlement first, and a settlement after. And whereas like doth produce its like; yet they would haue an unsettlement to beget a settlement. They would haue confusion, distraction, destruction, to bring forth order and safety. But the former Scriptures speake not of the future, but of the present time; not of obeying those that shall be powers, and shall be in authority; but the powers that are, and those that are in authority: Neither do the Casuists and Diuine, speake of obedience to those that shall be settled, but those that are in actuall possession of authority. Neither did our Ancestors in the former examples defer obedience to the Kings that came in by power without Title; but gave it presently, being presently vested and possessed of authority. Besides, let it be considered whether that may not be called a settlement, how soone soever it is, when there is such a way settled that men may haue Justice if they will, and may enjoy that maine end of Magistracie,

gistracy to live a peaceable life in godliness and honesty.

And indeed when one is in possession by power, and another pretends a Title, what can the maine body of a Nation which consists of the Common people do in this case? They cannot judge of Titles; but they see who doth visibly and actually exercise power and authority. Yea even learned men, and States men have beene found ignorant of the former observations, of the not succeeding three in order of blood since the Conquest; and then how should the Common people know it? Yet further, even Peeres, chiefe Cities, Parliaments, and all having to one in every three, thus subjected themselves upon termes of Power and not of right; what can be expected but that what hath bin done, may or shall be done hereafter? especially when in this present age obedience is given to the Lawes and Commands of those Princes. But some say

what right had William the first, who was surnamed the Conqueror? what right (we speake of a Right of Equity) had his Son William the second, & Henry the first, while their elder brother lived, &c. Parliaments as Kingdoms, give their voice with power, & he who hath the force, doth

commonly carry the effect of Right, Speed in H. 4. The King (H. 7.) made speede to London, as to the chiefe seat and Epitome of the English Monarchy, &c. The Mayor of London and his Fellowship received him in Violet at St. Dunstons Parke, but his entrance (which was at Sherditch) was honoured with a very great troop of the Peers and Nobles in his Trayne, &c. The whole House of Parliament concurred finally in establishing by a Statute Act, the Crowne upon him and his Heires for ever in 1471.

that there are Oaths that justify disobedience to the present Government. Surely Oaths are sacred bonds and reverent obligements, and where they doe not themselves leave or make us free, we are not to cut or breake them in pieces; Yet concerning these there are faults on both hands; On the

one side the lighting of an Oath, (and such is the
 comparing it with an Almanack) which is a light
 as well as an improper comparison: except it were
 such an Oath as was made onely for a year: But
 we finde some part of the Vow and Covenant to
 speake of all the dayes of our lives, which doubt-
 lesse may lye on many of the taken for many years:
 True it is that the obligation of some things may
 end, because they can no longer be kept, as that of
 the Kings person: for to impossible things there is
 no obligation: but will any man that understands
 and favours Religion and Piety, say that the clauses
 which concerne Religion and Piety are expired?
 Did we promise to God in our severall places and
 callings, to extirpate Profanenesse, Heresie, and
 Blasphemy, and to endeavour a reformed life in
 ourselves and ours; onely till our Enemies were
 overcome, and then to make an end? What were
 this but to say unto God, If thou wilt deliver us
 we will be bound to thee till we are delivered and
 no longer? Would this invite God to deliver us
 from our enemies; or rather to keepe our Enemies
 still in strength against us? least we being delivered
 from our Enemies should not serve him in righte-
 ousnesse and holinesse all our lives. Surely this is too
 like that course of carnall Israel, of whom it is writ-
 ten, *When he slew them, then they sought him;
 and they enquired early after God; but their heart
 was not right with him, neither were they stedfast
 in his Covenant.* Much more piously and faithfully
 a reverend and truly spirituall Divines, *A well ground-
 ed.*

*Regula iuris.
 Impossibile non
 nulla est obliga-
 tio.*

And Covenant is a sure, a firme, and an irrevocable
 All. When you have such an All This (and such
 you have) as is here concentrated in the Text, to
 lay into, or for the foundation of the Covenant; the
 superstruction (is eternitati sacrum, and) must stand
 for ever.

Mr. Carlin
 his Sermon up-
 on Job. 9. 30.
 concerning
 the Covenant.
 Oct. 6. 1643.

But on the other side there are other faults; such
 are the urging of an Oath or Covenant against ene-
 mies, and not against friends in one and the same
 Action; and if not altogether so, yet a slight and
 diminishing charge of it upon one, and a vehement
 and aggravating charge of it upon the other. Ano-
 ther fault may be, a stiffe insisting on one part, and
 a neglect, or at least silence in another part; as like-
 wise when by event two parts of it come to be in-
 consistent, to chuse and inforce the keeping of the
 lighter or lesse necessary part, and to give way to
 the losse and not keeping of the greater. There is
 another, in racking an Oath or Covenant, to make
 it speake that which it meant not. And here it
 were good to consider, whether there be any clause
 in any Oath or Covenant, which in a faire and com-
 mon sense forbids obedience to the commands of
 the present Government and Authority, much lesse
 when no other can be had, and so the Common-
 wealth must goe to ruine. And whether it forbids
 obedience to the present Authority more then to
 Lawes that have beene formerly enacted, by

Quando res illa
 quam quis jura-
 mento confirmavit
 non est contra
 legem, et contra
 iustitiam, et contra
 bonam consuetudinem

et alia; cum quibus qui qui juravit, in mutatione virtutum vel fortium esse debet esse, per omnia
 ad hoc expressum dicitur, aut denique, quando res iuramento confirmata est iuranti impedimento, de bono
 publico dispensatio, non est legitima causa dispensandi in iuramento. Sayr. lib. 5. c. 8. n. 12.

those

those which came in authority meerely by power? If it be said that in the Oath of Allegiance, Allegiance is sworn to the King, his Heires, and Successors, if His Heires be not his Successors, how doth that Oath binde? either the word Successors must be superfluous, or else it must binde to Successors as well as to Heires; and if it binds not to a Successor, that is not an Heire, how can it binde to an Heire that is not a Successor? And if you will know the common and usuall sense (which should be the meaning of an Oath) of the word Successors, you neede not so much aske of Lawyers and learned persons, as of men of ordinary knowledge, and demand of them, Who was the Successor of *William the Conqueror*, and see whether they will not say *William Rufus* 5 and who succeeded *Richard the third*, and whether they will not say *Henry the seventh* 2 and yet (as it appeares before) neither of them was Heire. So it seemes in the ordinary acceptation, the word Successor is taken for him that actually succeeds in Government, and not for him that is actually excluded. And as in Language the ordinary acceptation of a word is to be taken for the meaning, so that meaning is to be understood as most proper to have been taken in an Oath.

*Si id quod iuratur
aut primis fuerit
deum, postea causa alius
intervenerit, non
est illicitum. Si
autem et in
iure sitile, tum
modo eo
sententiam obli-
gat. Alled.
cap. 15. n. 13.*

*Interpretandum
in foro conscientie
semper est
interpretandum
iuxta mentem
jurantis, ad info-
re exteriori seu
judiciali semper
est iudicandum
secundum com-
munem sensum,
quem ipsa verba
reddunt, & se-
cundum commu-
nem hominum
usum.*

*Alled. cap. 15
n. 13.*

And one who
hath lately writ-
ten for infant

Bairdine, according to our Saviours rule of salt, and peate, with sharp reason, and
milde language, hath these words. If one of our late Kings Son should be crowned King
of Scotland and Ireland onely, he could not be said to succeed the King of England, be-
cause the subject of his Government in regard of latitude, is changed, and he comes not
in his Fathers room as King of England. Mr. Drex. page 31.

Et n. 2. p. 2.

1100

del

Yet withall the Quære may be added; While the Son is in the same posture in which the Father was, how comes this Oath at this time to stand up and plead for disobedience in regard of the Son, that was a sleep and silent in regard of the Father?

But now let us enter into the question of active obedience, and acting under this present power and Government. But first let this be premised, That this present power is in possession of the whole Land, and no visible force to oppose or overbear it, and so it is not like that betweene *David* and *Abisalom*, where *David* had an Army in view that might, and did overcome. And next, That a course of Justice, or giving right is opened at *Walsminster*, and through the whole Nation; and this being the present state of the Nation, let us examine whether it be lawfull to act in such a State? True it is that some hold it wisdom, and some hold it duty, to be quiet, and not to act. But first, it hath been proved before, that obedience to such a power in good things is lawfull. Now if obedience in good things be lawfull, then Acting for Justice and Order being good things, and commanded, it is lawfull to obey that command.

See Master *Abraham* Discourse (that hath in it both judgement and learning) concerning possession, part. 1. chap. 6. & sequ. & part. 2. ch. 4. pa. 22

Secondly, if all should not act, I think the not Actors would fall short of their supposed and intended quietnesse, and the wisdom they placed in it: For by non-Acting in the way of justice the whole (and themselves among the rest) would lye open to Injustice, spoyle and destruction, and so be far from quietnesse. And indeed what reason is it, that those that will not act, because they hold it unlawfull, should expect that others should doe an unlawfull Act to benefit them? And why should others give right to them that will not give right to others?

C

Thirdly,

Si id quod iura-
mentum primo fuit
dictum, po-
tuit transire alii
interuenienti
huiusmodi iura-
mentum, aut etiam
transire, cum
nulla modo co-
sentiant obligari.
Alfred.
cap. 15. n. 13.

In iurandum
in foro conscien-
tia semper est
interpretandum
iuxta mentem
perantis, ad refe-
rentiam exteriori seu
judiciali semper
est iudicandum
secundum com-
munem sensum,
quem ipsa verba
reddunt, & se-
cundum commu-
nem hominum
usum.

Alfred. cap. 15.
n. 13.

And one who
hath lately writ-
ten for infant

Discipline, according to our Saviours rule of 'fair' and 'peace, with sharp reason, and
milde language, hath these words. If one of our late Kings should be contented
of Scotland and Ireland onely, he could not be said to succeed the King of England, he
could be the subject of his Government in regard of latitude, is changed, and he comes not
in his Fathers roome as King of England. Mr. Dives page 17.

those which came in authority meerely by power?
If it be said that in the Oath of Allegiance, Allegiance is sworn to the King, his Heires, and Successors, if His Heires be not his Successors, how doth that Oath binde? either the word Successors must be superfluous, or else it must binde to Successors as well as to Heires; and if it binde not to a Successor, that is not an Heire, how can it binde to an Heire that is not a Successor? And if you will know the common and usual sense (which should be the meaning of an Oath) of the word Successors, you neede not so much aske of Lawyers and learned persons, as of men of ordinary knowledge, and demand of them, Who was the Successor of *William* the Conqueror, and see whether they will not say *William Rufus* 5. and who succeeded *Richard* the third, and whether they will not say *Henry* the seventh 2. and yet (as it appears before) neither of them was Heire. So it seemes in the ordinary acception, the word Successor is taken for him that actually succeeds in Government, and not for him that is actually excluded. And as in Language the ordinary acception of a word is to be taken for the meaning, so that meaning is to be understood as most proper to have been taken in an Oath.

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Yet withall the Quere may be added; While the Son is in the same posture in which the Father was, how comes this Oath at this time to stand up and plead for disobedience in regard of the Son, that was a sleep and silent in regard of the Father?

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C

Thirdly,

Thirdly, It is cleared in this discourse, that those who have gotten to be powers (though by force) yet ought to give justice to those whose Government they have undertaken. And againe, That the people may lawfully demand it. But is it possible that one or a few persons in supreme power can distribute justice to a whole Nation without subordinate Agents? So that to say, None may lawfully Act under the supreme power in distributing of Justice, and Government, were to say, upon the matter, That he should give no justice, and that the people should have no justice at all, And then how absurd is it to teach, that the people may lawfully seeke justice of him, which they cannot receive? and that he is bound to give justice, but none are allowed by whom he may give it?

Fourthly, This Doctrine of not Acting is the very Doctrine of Levelling. For when no man may Act to give justice, may not every man take freely from his Neighbour, what he list, and so levell the Rich with the Poor? unless this make it unlike, because worse then Levelling. That those who have most force, will have most; yea some all, and others nothing; and so to avoid Acting under a supposed Tyrannicall Government unto justice and order, there shall be Tyrants in every place or parish, who shall Act to disorder and oppression, and no property, justice, nor Government at all left amongst us. And surely I think *David* out of his love to *Israel* would not have wished such an Estate, to *Israel* under *Absalom*, had he the whole in possession, & himself no force on foot to recover it; nor would he have desired such an unsettlement to procure his settlement. And hence ariseth that which they call an Interpretative consent of the people; because it is understood & supposed that every rationall man doth consent, that there should be

be order, property and right given to every Member of a Common-Wealth under a Tyrant, rather then all to be under confusion, oppression, Robberies, & Murders.

Fifthly, how could *Ezra* and *Nehemiah* justify their Acting under the Persian Monarch, who had no right to the Crown of *Judah* either by blood or just conquest? Yet *Ezra* was authorized by him to set Magistrates, fines, and imprison, and put to death; And he exerciseth authority, in making the people of Israel to sweate, and to enter into a Covenant, & in sending forth a Proclamation to all the Children of the captivity, that they should gather themselves together to Jerusalem; And that who soever would not come within three dayes, all his substance should be forfeited. *Nehemiah* also Acts as Governour, and rebuketh the Nobles, and Rulers, and sets a great assembly against them, because of their usury. He also called the Priests and took an Oath to performe the promise of leaving that Usury. He acknowledgeth also that he was Governour there about twelve yeares, and he gave his Brother *Hanani*, and *Hananiah* Ruler of the Palace charge over Jerusalem. So he did both Act himselfe, and others Acted under him. We finde also that at that time there were Rulers of the people that dwelt at Jerusalem, and *Nehemiah* contended with the Rulers and Nobles, made Treasurers, commanded the Gates to be shut before the sabbath, threatened to lay hands on the Merchants, that lay at the Gates, smote certaine of the Jews, and pluckt off their haire, because having married wives of *Ashdod*, their Children spake halfe in the language of *Ashdod*.

Sixthly, Let us heare what before these times and before our case was in being, hath been taught in point of Acting; and upon what grounds it hath bin approved. An author eminently learned and skilfull in the doctrine of

Nallus potest
excoqui vel con-
demnare alium
etiam in pana
iusta, nisi habeat
at publicam po-
testatem quam
Tyrannus dare
non potest. Sed
in hoc etiam
adverendum
seu subsistun-
gendum est.

Nam hoc in ri-
gore verum est,
quantum ex par-
te Tyranni;
contingit autem
ut Resp. quia

non potest illi resistere, tolerare illum & ab eo se gubernari sinat, & tacite consentiat, ac velis iustitiam per ipsum administrari propter rationem illam, quia minus malum est per illum gubernari, quam omnino carere iusta coactione, & directione, & tunc non erit peccatum obedire etiam in dictis rebus, quia Resp. consensus supplet defectum potestatis Tyranni. Suarez. de Leg. lib. 3. cap. 10. Sententia eius esse valida probatur. Quia eius sententia & iusta mandata & si non habent vim à Tyrannica potestate, habent tamen aliunde primò & inchoative à iure naturali, quod suppositio tali rerum statu, dicitur esse obtemperantium propter bonum commune; alioquin omnia essent plena furis & latrocinij. Secundo & completè à reprobis.

lawgiving saith thus: No man may punish or condemn another even with a just punishment, except he have publique power, which a Tyrant cannot give. But in this there must be a consideration or subdistinction. For in rigor this is true as to the Tyrant's part; yet it so happens that the Common-wealth because it cannot resist him, doth tolerate him, and suffers it selfe to be Governed by him; and doth tacitely consent, and will that justice be administred by him, for the reason already touched, because it is a lesse evil to be Governed by him, then altogether to want just coaction and direction; and then it shall not be a sin to obey even in the things aforesaid, because the consent of the Common-wealth doth supply the defect of the Tyrants power.

Another thus, That his sentences are valid, is proved. Because his sentences, and just commands although they have not force from a Tyrannicall power, yet they have it from elsewhere. First, and inchoatively from the law of nature, which such a State of things being supposed, doth dictate that obedience must be given for the Common good, otherwise all will be full of Thefts and Robberies. Secondly, and compleately from the Common-wealth; and that either because while that State endures, it gives authority to him by a tacite consent, while it will's that he administer justice, and use his usurped Office in a due manner, or rather because it doth tacitely approve his Commands, and Acts being agreeable to the Lawes and Common good, and will's that his just sentences, whereby the suites of the people are decided, and the guilty are punished, shall be valid and binde the subjects; for except they were valid and did binde, no man would obey, but onely in shew,

but.

but every man would secretly doe the contrary with a great inconvenience to the Common-Wealth. Now the Common-Wealth may give this force to the sentence, and Acts of a Tyrant, because it is superiour to all single persons, though it be oppress'd with Tyranny, and may account the just sentence of a Tyrant as its owne.

ut patet de his modo sanctis, vel potius quia tacite approbat ejus munera, & ad ea, legibus & utilitati communi consentiendo, & tali sententia justis quibus libet citius dirimuntur, & superis plebuntur, esse valida, & subditi obligare nisi enim valida essent & obligeant, nemo nisi in speciem obtemperaret sed quisque occulte faceret contrarium, cum magno Republice incommodo potest autem Republica hanc rem sententia & ad ea Tyranni dare, quia est singulorum superius, omni Tyrannide sit oppressa, & iustis Tyranni sententia pro suis habere.

Thou wilt aske, whether a Tyrant doe sinne the sin of murder, and be bound to restitution, if he put to death guilty persons, or deprive them of their goods according to Law? I answer negatively; because the Common-wealth doth tacitely give him authority hereunto, while it doth consent, and desire, that this should be done by him.

pondeo, negamus; Quia Republica tacite ad hoc tribuit illi auctoritatem dum consentit & capit ut hoc faciat. Lellius de Justitia & Jure, lib. 2. cap. 25. Debitur 9.

Thus is the authority of Acting in this case grounded upon a tacite or implied consent, which consent is the very dictate of nature or common reason, because it is better to have some justice then none at all, some coercive power and Government, then that all be left to disorder, violence, and confusion. I will shut up all with the result of a disputation more full and comprehensive, then most I have met with on this subject. And therein I present to consideration, First, The moment and weight of the

Authors reasons. Secondly, The probability and likelihood of the cleareness of his reasons; because they seeme to proceed from a judgement cleare and free from the Byas of affection. Yea his judgement herein did swim against the streame of his affections; for he perswades an obedience to the Government of a Governor that he loved not. And with this Ingenuity and cleareness, we reat least no lesse amongst us.

He wrote in the raighe of Queene Elizabeth, to whom in the language of Rome he gives the terme of impious, &c. and takes notice of her as a Tyrant, and by sentence of the Church turned out of all right to princely authority, yet after some previous Assertions concerning this subject, he comes to

Quarta assertio.

A fourth Assertion.

Tyranno in se esse, seu quia tyrannice regnum usurpat, seu quia Tyrannicillud rei frangit, ut non per sententiam Ecclesie expellatur, regnat autem quia a subditis non potest repellitur, tenetur

To a Tyrant in factio esse (or possession) by Tyrannicall usurping a Kingdome, or tyrannicall holding it, being by the sentence of the Church disposed from it, but yet governing because he cannot be repelled by the subject; The people are bound in conscience to give obedience, if he command and decree things that are just.

Tyrannus in se esse, seu quia tyrannice regnum usurpat, seu quia Tyrannicillud rei frangit, ut non per sententiam Ecclesie expellatur, regnat autem quia a subditis non potest repellitur, tenetur

Ut Christiani reges Asia tenentur iustis Turce, & Catholici reges Anglia, legibus

Having laid down this Assertion, he proceeds thus; As Christians dwelling in Asia, are bound to obey the just lawes of the Turke, and the Catholikes in England, the just lawes of that Impious Queens; This is thus proved

ved; The people are bound in conscience to agree unto, and observe those things which are altogether necessary to their Common-wealth, either simply and absolutely, or at least for that State wherein they are. But to obey a Tyrant, commanding just things as long as he cannot be repelled, and a lawfull Prince obtained, is for that State and Time altogether necessary to the Common-wealth, for the preservation of it. Therefore the people are bound to obey him. The Major with the consequences is manifest. The minor is proved: First, because that a Tyrant being powerfull in strength, and now peaceably ruling, there would follow an extreme perturbation, and confusion in the Common-wealth by not obeying him; and the people should more hurt the Common-wealth by not obeying then the Tyrant himself, when he commands just things by his Tyranny.

un Reip. ad ejus conservandam. Rex tenetur civis illi obedire. Minor consequentia quia est. Minor probatur. Primum quia cum Tyrannus ille sit potens viribus, & jam possidet imperium, sequetur maxima perturbatio, & confusio in Republica non obediendo illi, & placet nocere civis sua Reip. non obediendo, quia Tyrannus cum iniustitiam faciat, sua Tyrannide.

Secondly, Because to the good Government of a Commonwealth, especially when things are so desperate and deplorable, it is requisite, as an onely remedy, that there be a judge which should compose strifes and controversies among the people, & to whom all then should give obedience; otherwise men in such a time could not live civilly, nor be secure in their Houses; a lodger could not be safe from him, with whom he lodgeth, nor a Neighbour from his Neighbour: But at such a time no other judge may be had that may performe this, but the

perest habere salutem pulchrum quod id praestet nisi illi Tyrannus. Ergo non iusta praecipit, non solum exterioris, verum etiam in conscientia tenetur, quod obediens debet.

Teritio, quando Tyranni non possunt publicam nec priusquam illis esset causa scandalum, & perturbatio Reipublicae obedi-
re. Illi non obediunt. Et confirmatur. Hoc interpretatur ex communi sententia. Dicitur enim in consensum expressum Reipublicae interpretatur quod expressum interpretatur in quod eligantur & insinuantur verus princeps aut subditus communitas obediunt etiam non ut re principis, sicut interpretatur quod in

Thirdly, When a Tyrant doth not peaceably govern, and cannot be repelled, it would be a great scandall and perturbation to the Common-wealth not to obey him. And it is thus proved; In the common opinion of Doctors there is this difference between an expresse consent of the Common-wealth, and an interpretative, that an expresse consent is required to choose a person, and make him a true Prince; But that Subjects be bound to obey, even one that is not a true Prince, an interpretative consent is sufficient, because the publique good of their Common-wealth doth require it. For rationally and prudently people are judged to consent to those things that are necessary for their Common-wealth; But in this case (as it is plain) it is most expedient for the peace and good of the Common-wealth that people should obey such a Tyrant. Therefore at least by an interpretative consent they are bound in conscience to performe and obey his just and honest commands.

Confirmatur
hoc omnia tri-

All these things are confirmed; First, out of the sacred Scripture, out of which and Histories it is manifest

wise

the contrary. Christ, Matthew said, did teach That Tribute was to be given to Caesar, yet himselfe did give it. Neither did he say, that he was free, because obedience should not be given to him that Tyrannically Reigned, but because he was the Son of God, and of David. John Baptist, Luke. 3. when the soldiers (which we doubt were the soldiers of the Romans) did aske of him what they should doe, he did not command them to quit their soldiery, or servants of a Prince that was a Tyrant, but this onely, that they should doe violence to no man, and be content with their wages. Wherein he did rather perswade them to continue in the service of Caesar. Moreover, Christ said unto Pilate, who had no authority but from Caesar, thou shouldst have no power of me, &c. and 1 Pet. 2. Be ye subject either to the King as supreme, or unto Governours as those that are sent by him. Now there was no King then but Caesar, nor any Governour but such as was appointed by him.

When the praetor dicitur habere auctoritatem quod ministri principes Tyranni, ad hoc tantum ut momentum concurrent, & contenti essent stipendii sui.] ubi patet suam stare in militia Caesaris. Præterea etiam qui nullam coactionem habebat nisi a Caesare, dicit Christus [non habebat in se potestatem, sed] Ioh. 1. Veritas [scilicet] obediens fuit. Regi tanquam praevalenti, sed docili tanquam ei in militia.] Nullus autem Rex tunc erat nisi Caesar, ut patet. Dux autem constituit ab eo.

Lastly, When Argument objecteth that the judgement of a Tyrant is of his part usurped and void, because his authority is usurped, he saith: That nevertheless Tyrants are par-

tyranni, tamen in imperio quo Christus & Johannes Baptista praeceperunt ut regerentur Christus, reges Johannes, reges Anglii ducunt, ne illicitum faciant, sed se reddidit, ut afferat se liberum, qui non esset obediens Tyrannico imperio; sed quis non Filius dei & Deus? Ioh. Bapt. Luc. 3. militibus autem praecepit ut contenti essent stipendio suo, & non essent violenti ulli.

Ad argumentum in oppositum dico, potestatem

hinc arguunt Illos. 251. 67. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

de iudicantibus off. revera usurpato- rum, & scien- tiam eju au- lam, quia pro- pter causam iusti- judicij & sen- tentiam, nempe au- thoritas eju est revera usurpata & nulla, ex par- te verid. civium off. illi obedi- endum in con- scientia tan- quam iuste sen- tentia, & legiti- mo iudicio, quia tenentur e ius- eligere minus malum tempo- rale, ad evitan- dum maius, & scientia talem suu principatum, ut emendat per minus ma- lum, quod videri illi, & for their Prince.

hanc perturbantem sua. Rep. que esset malis majus malum. Tum cum quid iudicia hanc possint quodam ratione dici iudicia veri iudicij, quatenus subtrahit a Rep. per consuetudinem prola- tum, qui sufficit ut tyrannus civis obedire illi in conscientia. Ex quo etiam sequitur, non esse vires debere illi in conscientia obedire, verum etiam tyrannum foreum tales sententias non peccare, quoniam peccare non nisi illas ferret, quando minus principatum foreum, quam si legem in conscientia principatum relinquere, aut eius modis honeste ut a. Rep. in sum principem est iuror. Michael Salon de iustitia, & iure, Quasi. de Act. 6.

As taking leave of this subject

I have (I confesse) in this subject gone out of the ordinary path of my employments in meditation and writing, but I did it occasionally out of zeale to peace; and that which I beleeve to be truth; being very sorry to see well meaning and (I hope)

(I hope) pious persons, by not obeying, swiftly and resolutely to goe out of the way of Peace, and (as I suppose) of truth; At least it seemed to me a sad thing, that those who had not searched the grounds of that which they held to be truth, yet did certainly endanger the losse of peace for that which they had not searched, and by searching found certainly to be truth. Yet I wonder not much if truth in this point be not commonly knowne in this Nation, since amongst the Protestants in this Nation, for these last fourescore years, there hath beene little debate of it. But having gathered the substance and summe of those grounds which in my judgement make out this truth, That it is lawfull to obey the present Government; and having shewed that this truth hath beene anciently held, and is not newly invented to serve present turnes, and that either it may be beleevd, or at least not condemned, unheard and unknowne, I shall now desire leave to retire and returne to my more proper worke, whereof I have so much in my hands that I cannot well expect a life now come far into the yeare accounted to be the terme of life, should have time to dispatch. If the grounds proposed be sound (as we have seene them thought so by men of great judgement) I hope they will stand against all waves and windes, and they will finde Patrons who have both strength of body and minde to maintaine them; if they be proved unsound, I would not maintaine them if I could.

FINIS.

